

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jun 13, 2025**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOSE RIERA,

Plaintiff,

v.

CENTRAL WASHINGTON  
UNIVERSITY; JAMES WOHLPART, an  
individual; RUTH ERDMAN, an  
individual; LUCINDA CARNELL, an  
individual; SATHYANARAYANAN  
RAJENDRAN, an individual; JOHN  
MACARTHUR, an individual; BRIAN  
MCGLADREY, an individual; STACI  
SLEIGH-LAYMAN, an individual; and  
KURT KIRSTEIN, an individual,

Defendants.

No. 1:24-CV-3147-RLP

**ORDER GRANTING MOTION  
TO EXTEND DISCOVERY AND  
SCHEDULING JURY TRIAL**

**JURY TRIAL SCHEDULED FOR  
DECEMBER 1, 2025**

A video conference was held in this matter on June 12, 2025 to address a  
discovery dispute between the parties. Erica Anne St Louis appeared on behalf of  
Plaintiff. Elizabeth Anne Olsen appeared on behalf of Defendants.

At the hearing, the Court addressed Plaintiff's motion for an extension of

1 time to complete discovery, ECF No. 60. The motion requests an extension of the  
2 briefing schedule due to the failure of Plaintiff's counsel to complete discovery  
3 within the time frame set by the Court's February 10, 2025 scheduling order.

4 Defendants oppose the motion to extend time.

5 For the reasons set forth on the record and as explained below, the Court  
6 **GRANTS** Plaintiff's Motion to Extend Discovery, ECF No. 60. However, Ms. St  
7 Louis's error warrants an imposition of sanctions limiting the scope of discovery  
8 and monetary sanctions for fees Defendants incurred in litigating this discovery  
9 dispute.<sup>1</sup>

#### 10 *Extending Discovery*

11 FRCP 16(b) provides that "the parties are bound by the dates specified in the  
12 scheduling order. A schedule may be modified only for good cause." "Rule 16(b)'s  
13 'good cause' standard primarily considers the diligence of the party seeking the  
14 amendment." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.  
15 1992). When ruling on a motion to amend a Rule 16 scheduling order to reopen  
16 discovery, courts consider the following factors:

17 1) whether trial is imminent, 2) whether the request is opposed, 3)  
18 whether the non-moving party would be prejudiced, 4) whether  
19 the moving party was diligent in obtaining discovery within the  
20 guidelines established by the court, 5) the foreseeability of the

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<sup>1</sup> The briefing schedule for motions related to sanctions is set forth in the  
Scheduling Order, attached hereto.

1 need for additional discovery in light of the time allowed for  
2 discovery by the district court, and 6) the likelihood that the  
discovery will lead to relevant evidence.

3 *City of Pomona v. SQM N. Am. Corp.*, 866 F.3d 1060, 1066 (9th Cir. 2017).

4 The “focus of inquiry” for determining whether good cause exists is  
5 “whether the party seeking modification has been diligent.” *DRK Photo v.*

6 *McGraw-Hill Glob. Educ. Holdings, LLC*, 870 F.3d 978, 989 (9th Cir. 2017).

7 “[C]arelessness is not compatible with a finding of diligence and offers no reason  
8 for a grant of relief.” *Johnson*, at 609. “Diligence” in a FRCP 16(b) context

9 generally concerns whether there is any unnecessary delay in bringing the motion

10 to amend – where a party fails to timely bring a motion to amend in response to

11 some error or confusion with the scheduling order, he or she does not act

12 diligently. *See Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087

13 (9th Cir. 2002).

14 Because Defendants oppose the motion, the second factor weighs against

15 granting the Motion. The fifth factor, foreseeability, also weighs against granting

16 the Motion. The parties agreed to an accelerated scheduling order at the Case

17 Scheduling Conference on February 7, 2025 despite the Court raising concerns

18 about insufficient time. *See* ECF Nos. 36 and 37. Thus, it was entirely foreseeable

19 that Plaintiff would fail to complete discovery within the allotted time factor.

20 The remaining factors weigh in favor of granting the motion. As to the first

1 factor, because trial is not scheduled to occur until September 22, 2025, an  
2 extension will not require the parties to be conducting discovery on the eve of trial.  
3 With regard to the third factor, Defendants will suffer no substantive prejudice to  
4 their case by granting an extension. As to the fourth factor, Ms. St Louis was in  
5 constant communication with Defendants, even notifying them of her  
6 unavailability prior to the discovery deadline. More importantly, Ms. St Louis  
7 acted diligently to rectify her error once she discovered she had missed the  
8 discovery deadline. Ms. St Louis promptly emailed opposing counsel and  
9 requested an extension, and once that was not forthcoming, filed the instant  
10 motion. Finally, Mr. Riera has not yet conducted any discovery, satisfying the sixth  
11 factor.

12 In sum, the Court finds good cause to grant the motion to extend time. While  
13 the need to reopen discovery is entirely the fault of Ms. St Louis' negligence and  
14 lack of foresight, she did act diligently to rectify her error once it was realized, and  
15 an extension would not unduly prejudice Defendants.

#### 16 *Sanctions*

17 Under FRCP 16(f), the Court may, on its own motion, impose sanctions if  
18 any party or its attorney fails to obey a scheduling order. Sanctions may include  
19 those authorized by Rule 37(b)(2)(A)(ii)-(vii). In addition to any other sanction, the  
20 Court must order the offending party, its attorney, or both, to pay to the reasonable

1 expenses, including attorney fees, incurred because of any noncompliance with the  
2 Rule.

3 Ms. St Louis' failure to comply with the discovery deadline warrants an  
4 imposition of sanctions. The Court will accordingly limit the discovery Plaintiff  
5 may conduct to a single set of requests for production of documents, and five  
6 depositions, representing the discovery she previously requested from Defendants.  
7 ECF No. 59, ¶6. Furthermore, Ms. St. Louis is personally ordered to pay  
8 Defendants' reasonable attorney fees incurred in responding to her motion.

9 Accordingly, **IT IS HEREBY ORDERED:**

10 1. Plaintiff's Motion to Extend Time, ECF No. 60, is **GRANTED** for the  
11 reasons set forth herein.

12 2. Plaintiff's Motion to Expedite, ECF No. 58, is **DENIED** as moot.

13 3. By **June 20, 2025**, Defendants shall file briefing relating to  
14 sanctions,  
15 including a detailed accounting of reasonable attorneys fees and costs incurred in  
16 litigating this discovery dispute, supported by contemporaneous time records and  
17 billing statements. Plaintiff shall have until **June 27, 2025** to file and serve any  
objections to the reasonableness of the requested fees and costs.

18 4. The dates set forth in the February 7, 2025 Scheduling Order, ECF  
19 No. 37, are hereby **STRICKEN**. Jury trial is rescheduled to commence on  
20 **December 1, 2025 at 9:30 a.m.** in Yakima, Washington. The trial is estimated to  
last

1 two weeks. An in-person pretrial conference will be held on **November 13, 2025**,  
2 at **9:30 a.m.** in Yakima, Washington.

3 5. The Parties shall refer to the February 7, 2025 Scheduling Order, *id.*,  
4 for details regarding professionalism and court assisted mediation, as well as rules  
5 related to discovery, trial submissions, and modifications to the Schedule.

6 6. The Parties shall disclose their FRCP 26 motions forthwith. These  
7 initial disclosures shall not be filed with the Court.

8 7. *Daubert* motions, and any motions to amend pleadings or add named  
9 parties shall be filed and served forthwith. If the party challenging expert testimony  
10 anticipates that an evidentiary hearing shall be required, the party shall so advise  
11 the Court and opposing counsel in conjunction with the filing of its motions.

12 8. All discovery shall be completed on or before **July 30, 2025**.

13 9. All dispositive motions shall be filed and served on or before **August**  
14 **6, 2025**.

15 10. Motions *in limine* shall be filed and served on or before **October 20,**  
16 **2025**. Responses shall be filed and served on or before **October 27, 2025**. Replies  
17 shall be filed and served on or before **November 3, 2025**. Motions *in limine* shall  
18 be noted for hearing at the pretrial conference.

19 11. Exhibit lists and witness lists shall be filed and served and exhibits  
20 made available for inspection (or copies provided), on or before **October 20, 2025**.

1 The witness list shall include identification of each witness's testimony. Where  
2 feasible, all exhibits identified in depositions shall be pre-marked with the exhibit  
3 numbers that will be used at trial. Plaintiff's trial exhibits are to be numbered 1  
4 through 199; Defendant's exhibits are to be numbered 200 and following.

5 Objections to the opposing party's witness list or exhibit list and any  
6 accompanying briefs shall be filed and served on or before **October 27, 2025**.  
7 Responses, if any, to objections shall be filed and served on or before **November**  
8 **3, 2025**.

9 12. A pretrial exhibit stipulation shall be filed on **November 6, 2025**.  
10 Objections to witness and exhibits shall be heard at the pretrial conference. This  
11 shall contain each party's numbered list of all trial exhibits with the opposing  
12 party's objections to each exhibit, including the basis of the objection and the  
13 offering party's brief response. All exhibits to which there is no objection shall be  
14 deemed admitted, subject to any objections at trial that could not be raised in  
15 advance.

16 13. The parties shall notify the Court on or before **November 3, 2025**,  
17 whether deposition testimony will be used at trial. The Court will then schedule a  
18 hearing to review all designated testimony and objections so that a final edited  
19 version of the deposition testimony can be prepared for trial.

20 14. A joint Pretrial Order, prepared in accordance with the format  
provided in Local Rule 16.1(b), shall be filed on or before **November 13, 2025**,

1 and a copy e-mailed in Word format to the Court at  
2 PennellOrders@waed.uscourts.gov. The list of exhibits contained in the joint  
3 Pretrial Order shall reflect the exhibit marking scheme described above. In  
4 preparing the joint Pretrial Order, the parties shall confer regarding duplicate  
5 exhibits and determine which party will submit such exhibits for trial.

6 15. No later than **November 6, 2025**, the Parties shall file trial briefs and  
7 voir dire, as well as jointly proposed jury instructions. The parties shall confer  
8 regarding jury instructions and file jointly proposed jury instructions and a table of  
9 proposed Jury Instructions. The jointly proposed Jury Instructions should address  
10 only issues that are unique to this case and shall include instructions regarding the  
11 elements of each claim, any necessary definitions, and a proposed verdict form. If  
12 any proposed instruction is a modified version of model instructions or deviate  
13 from model instructions, the parties shall identify the modification and cite legal  
14 authority for the modification.

15 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
16 this Order and to provide copies to counsel.

17 **DATED** June 13 2025

18 

19 REBECCA L. PENNELL  
20 United States District Judge